

## **SINGLE-FAMILY HOUSE PERMIT**

<b>FILE NO.</b>	<b>SF19-038</b>
<b>LOCATION OF PROPERTY</b>	<b>Southwest side of Dove Hill Road, approximately 1,370 feet southerly of Yerba Buena Avenue (0 Dove Hill Road)</b>
<b>ZONING DISTRICT</b>	<b>R-1-2 Single-Family Residence</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Rural Residential</b>
<b>PROPOSED USE</b>	<b>Single-Family House Permit to allow the construction of a new 5,496-square foot two-story single-family residence, that exceeds 30 feet in height, with an attached 498-square foot garage and retaining walls exceeding two feet in height on a 0.87-gross acre site</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Exempt pursuant to CEQA Guidelines Section 15303(a) for New Construction or Conversion of Small Structures</b>
<b>OWNER/ADDRESS</b>	<b>Hung Quoc Nguyen 505 Burke Street San Jose, CA 95112</b>
<b>APPLICANT/ADDRESS</b>	<b>Qui T. Son I-Mark Design Group 1659 Scott Boulevard, Suite 36 Santa Clara, CA 95050</b>

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

### **1. Project Description**

Single-Family House Permit to allow the construction of a new 5,496-square foot two-story single-family residence, that exceeds 30 feet in height, with an attached 498-square foot garage and retaining walls exceeding two feet in height on a 0.87-gross acre site, located in the R-1-2 Single Family Residence Zoning District. The project has a leach field to the east of the house. The site access is provided via an 18-foot wide driveway off Dove Hill Road.

The detached secondary dwelling unit (ADU) located to the north east corner of the site, approximately 28 feet from the primary residence, will be reviewed during the building permit process and is not part of this Single-Family House Permit.

### **2. Site Description and Surrounding Uses**

- a. The subject 0.87-gross acre site is located on the southwest side of Dove Hill Road, approximately 1,370 feet south of Yerba Buena Avenue, at 0 Dove Hill Road.

- b. Rezoning of the site from the A Agricultural to the R-1-2 Single Family Residence Zoning District was approved in 2014 with Rezoning File No. C14-031 (Ordinance No. 29504).
- c. The site is located on the Southwest side of Dove Hill Road, approximately 1,370 feet southerly of Yerba Buena Avenue, at 0 Dove Hill Road. The site is currently vacant and is bounded by low-density residential uses to the north, east and south, and Highway 101 to the west.
- d. The subject site has a slope of 29% and a Geologic Hazard clearance from the City Engineering Geologist was obtained on 7/19/2019.

### 3. General Plan Conformance

The subject property is designated as Rural Residential on the General Plan Land Use/Transportation which has an allowable density of up to two dwelling units per acre, with a requirement to match the existing land use pattern in the area. This designation is applied to areas already largely developed for residential use with a low density or rural character. Any new infill development should be limited to densities that match the established density, lot size, and character of surrounding properties. Discretionary development permits are required for new development and subdivisions in these areas as a mechanism to address public service levels, grading, geologic, environmental, aesthetics, and other issues.

The proposed residence will be similar to other such residential uses on large rural lots in the neighborhood, consistent with the Rural Residential General Plan designation and is consistent with the following General Plan Land Use policies:

- a. Land Use Policy LU-17.1: Allow development in hillside and rural residential areas consistent with or below existing or planned densities in these areas to maximize resource conservation. Support development only when it is compatible with the character and pattern of the surrounding area, even if below the maximum potential residential density as designated on the Land Use/Transportation Diagram.
- b. Land Use Policy LU-17.2: Apply strong architectural, site, and grading design controls through a discretionary development review process to all types of hillside and rural residential development that require significant grading activities in order to protect the hillsides and to minimize potential adverse visual and environmental impacts.

*Analysis: The project conforms to these Land Use Policies of the General Plan which require any development on this site to be consistent with the character and pattern of the surrounding neighborhood and minimize all visual and environmental impacts. The project will be developed with a two-story single-family home, with architectural features such as red concrete tiled roof, stone base veneer, wood railings and balconies at lower and upper floors, wood window trims, belly bands and roofing bracket details. The project conforms to the height requirements for hillside development and minimizes potential visual impacts through grading and design that blends into the natural terrain and character of the rural residential neighborhood.*

- c. Land Use Policy LU-18.3: Require soils and geologic review of hillside development proposals to assess such potential hazards as seismic hazards, surface ruptures, liquefaction, land sliding, mud sliding, erosion and sedimentation in order to determine if these hazards are present and can be adequately mitigated. Use geotechnical studies of hillside development proposals to determine the full extent of seismic and other hazards, the optimum locations for structures, roads, and utilities, the advisability of special structural requirements and amenities such as swimming pools or ponds, and the feasibility and desirability of a proposed structure and/or irrigated landscaping in a specified location.

- d. **Land Use Policy LU-18.4:** Incorporate mitigation measures identified through geotechnical and other studies necessary to protect public safety and the natural environment.

*Analysis: The project also conforms to these Land Use Policies which require soils and geologic review of the single-family residential development to assess potential hazards such as liquefaction, landslides, mudslides, etc., in order to determine if these hazards are present and are adequately mitigated. Mitigation measures are identified through geotechnical and other field studies required for protecting public safety and the natural environment. The geologic hazard clearance was approved for the site by the City Engineering Geologist on July 19, 2019.*

#### 4. Zoning Code Compliance

Under the provisions of Section 20.100.1050 of the San José Municipal Code, a Single-Family House Permit, subject to the Director public hearing procedures, is required for new 5,496-square foot single-family house greater than thirty feet in height or two stories tall.

The project, which also proposes a new 800-square foot second dwelling unit, will conform in all respects to the provisions of Title 20 of the San Jose Municipal Code, including the development standards of the R-1-2 Single-Family Residence Zoning District for single-family residences as analyzed below:

- a. **Setbacks.** The proposed residence conforms to the required setbacks, as follows:

Setbacks	Minimum Required	Proposed
Front	30 feet	30'-6"
Side (east)	15 feet	25 feet
Side (north)	15 feet	192 feet
Rear	25 feet	36'-6" feet

- b. **Height.** The proposed maximum building height of 30 feet 3 inches conforms to the maximum permissible height of 35 feet per Chapter 20.30.200 of the Zoning Ordinance.
- c. **Parking Requirement.** Two covered parking spaces are required for the single-family home; this requirement is met through the attached two-car garage.
- d. **Retaining Walls:** There are no front or side setback requirements for a retaining wall. The proposed retaining walls are up to five to ten feet in height located in the side and rear yards of the project site and have been reviewed by the Department of Public Works per their memo dated 10/18/19.
- e. **Geology Hazard Clearance.** The geologic hazard clearance was approved for the site by the City Engineering Geologist on July 19, 2019.

#### 5. Single-Family House Permit Findings. Pursuant to Section 20.100.1090 of the San Jose Municipal Code, the Director finds the following with regard to this Single-Family House Permit:

- a. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

*Analysis: The proposed single-family residence with attached two-car garage share a similar mass and scale that is well-integrated into a harmonious development. The size, mass and architectural elements of the proposed residence is compatible with existing single-family residences in the area. The project is consistent with the Single-Family Residential Design Guidelines. The Design Guidelines encourage new development in existing neighborhoods to incorporate distinctive architectural characteristics of surrounding development. The new*

*residence will have similar sloped roofs, smooth stucco exterior wall finishes with base stone veneer, belly bands, stucco reveals and prominent front entryways, with access from Dove Hill Road, similar to adjacent hillside homes in the neighborhood. The hillside design guidelines also encourage building mass and rooflines to reflect general slope of the site. The building design is along the contour of the slope and rooflines are designed to be parallel to the slope of the land to conform to the natural terrain of the parcel.*

*The retaining walls are proposed to be constructed on the site due to the sloped terrain and to retain soil for landscape purposes and will vary from two feet to ten feet in height along the length of the driveway and on the rear and sides of the two lots.*

- b. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

*Analysis: The new house is aesthetically harmonious with adjacent development and the character of adjacent homes, in that the proposed building design incorporates design elements that are present in the neighborhood such as sloped roofs, upper decks and balconies, columned entryways. The front facade incorporates materials as those in the neighborhood, including stone base veneer, stucco walls, tiled roofs and windows with painted wood trims and details.*

*The building mass is compatible with the adjacent homes on large lots in that the two-story house follows the hillside slope and is not situated on a flat pad, which reduces the appearance of height and mass as viewed from street. The attached garage and driveway designs are similar to adjacent homes which have attached two to three car garages and long driveway access from public street. The retaining walls are of durable materials and design and will be compatible to similar construction of walls in the neighborhood. The proposed project is, therefore, compatible and aesthetically harmonious with adjacent development or the character of the neighborhood.*

- c. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*Analysis: The project involves the construction of a new two-story house. The impact such as noise and air quality due to the construction is temporary. The construction hours are limited to 7:00 a.m. to 7:00 p.m. from Monday to Friday and included as part of the conditions of approval for this permit. The drainage from the site is proposed to be directed toward the street. The landscape retaining walls will vary from two feet to ten feet in height to achieve a natural flow of site design and facilitate erosion control and runoff for irrigation purposes. Therefore, the project will not have an unacceptable negative affect on adjacent properties.*

- 6. **Environmental Review.** Section 15303 (New construction or conversion of small structures) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), provides an exemption for projects that consist of construction and location of limited numbers of new, small facilities or structures. One single-family residence in a residential zone is included in this exemption. The proposed project is a new two-story house in a residential zone and is found to be exempt from further environmental review under the provision of CEQA Section 15303(a).



## APPROVED SUBJECT TO THE FOLLOWING CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Discretionary Review.** The Director of Planning, Building, and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Single-Family House Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San Jose Municipal Code.
5. **Building Permit.** Procurement of a Building Permit as described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions.
6. **Compliance with Laws.** The subject use shall be conducted in full compliance with all local, state and federal laws and regulations. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code or any other law.
7. **Conformance to Plans.** Development of the site shall conform to approved Single-Family House plans entitled "The Nguyen Estates, 0 Dove Hill Road, San Jose, CA 95121", dated received February 27, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
8. **Tree Removals.** No tree larger than 38 inches in circumference, at a height of four feet six inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning. No trees are approved for removal with this permit.

9. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- Construction Plans.* This permit file number, **SF19-038**, shall be printed on all construction plans submitted to the Building Division.
  - Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
  - Street Number Visibility.* Street numbers of the building shall be easily visible from the street at all times, day and night.
10. **Public Works Clearance.** The applicant will be required to have satisfied the following Public Works conditions prior to the issuance of Building permits. The applicant is advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.
- Transportation:** The projected traffic for this project was reviewed and found to be minimal, therefore no further traffic analysis is required.
  - Grading/Geology:**
    - A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
    - All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
    - A Geologic Hazard Clearance for this project was issued on July 19, 2019 and is valid for 3 years from the date of issuance.
    - Project runoff rates and duration shall match pre-project conditions.
  - Sewage Fees:** This project currently proposes to install a septic system. In the future, if this project proposes to connect to the City's sanitary system, in accordance with City Ordinance, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, would be due and payable.
  - Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
11. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. No construction activity is allowed at any time on weekends.

12. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
13. **Protection of Storm Drains.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
14. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
16. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this site shall be conducted in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
17. **Revocation, Suspension, Modification.** This Single-Family House Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Single-Family House Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **11<sup>th</sup> day of March, 2020.**

ROSALYNN HUGHEY, DIRECTOR  
Planning, Building and Code Enforcement

Deputy